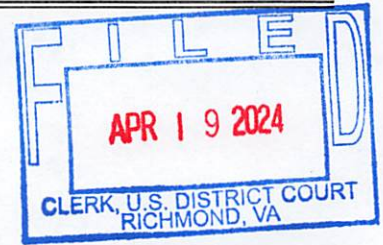


## UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia



United States of America

v.

Case No. 3:24-mj-

42

Denis Omar Diaz Luna

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 12, 2024 in the county of Chesterfield in the  
Eastern District of Virginia, the defendant(s) violated:

Code Section

Offense Description

8 U.S.C. 1326(a)

Illegal Reentry after Removal

This criminal complaint is based on these facts:  
 See attached affidavit.

☒ Continued on the attached sheet.

Reviewed by AUSA/SAUSA:

Michael C. Moore

Complainant's signature

Nathan Miller, Deportation Officer

Printed name and title

Sworn to before me and signed in my presence.

Date: 04/19/2024

Judge's signature

City and state: Richmond, Virginia

Summer L. Speight, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR CRIMINAL COMPLAINT**

I, Nathan Miller, being duly sworn, state the following:

1. I am a Deportation Officer for the U. S. Immigration & Customs Enforcement ("ICE") and am currently assigned to the Richmond Sub-Office of the Washington Field Office. I have been employed by that agency since June 2018. My duties as a Deportation Officer involve enforcement of the Immigration and Nationality Act, particularly the location and apprehension of criminal aliens for removal.
2. This affidavit is in support of an application for a criminal complaint charging Denis Omar DIAZ LUNA with Reentry After Removal in violation of 8 U.S.C. § 1326(a). As described herein, Denis Omar DIAZ LUNA is a citizen of El Salvador and an alien who was previously removed from the United States on at least 1 occasion. After his removal, he reentered the United States, and from March 2018 until the present was found in the United States within the Eastern District of Virginia without having first obtained the express consent of the Attorney General or, his successor, the Secretary of Homeland Security.
3. The facts and information contained in this affidavit are based on my personal knowledge and observations, information conveyed to me by other law enforcement officials, and my review of records, documents, and other physical evidence obtained during this investigation from the Secretary of Homeland Security, and other sources. This affidavit contains information necessary to support probable cause but is not intended to include each and every fact and matter observed by me or known to the government.

Birth in El Salvador

4. A review of ICE's files and computer records revealed that Denis Omar DIAZ LUNA, was born in 1996, in Santa Ana, El Salvador, and at all relevant times was a citizen of El Salvador.

Virginia Criminal History

5. On August 14, 2014, DIAZ LUNA was arrested by Chesterfield County Police in Chesterfield County, Virginia for Fail to Stop for an Accident in violation of VA Code B.46.2-894 and Failure to Appear in violation of VA Code 19.2-128.

6. On December 14, 2014, DIAZ LUNA was convicted in the General District Court in Chesterfield VA for the offense of Fail to Stop for an accident in violation of VA Code B.46.2-894 and sentenced to 90 days (90 days suspended) incarceration and for the offense of Failure to Appear in violation of VA Code 19.2-128 and sentenced to 10 days (10 days suspended) incarceration.

7. On August 31, 2015, DIAZ LUNA was arrested by Chesterfield County Police in Chesterfield County, Virginia for DWI in violation of VA Code 18.2-266.

8. On October 28, 2015, DIAZ LUNA was convicted in the General District Court of Chesterfield, Virginia, of DWI in violation of VA Code 18.2-266 and sentenced to 6 months (6 months suspended) incarceration.

9. On November 17, 2015, DIAZ LUNA was arrested by Chesterfield County Police in Chesterfield County, Virginia for Assault in violation of VA Code 18.2-57.

10. On April 11, 2017, DIAZ LUNA was convicted in the Juvenile and Domestic Relations District Court of Chesterfield, Virginia, of Assault in violation of VA Code 18.2-57 and sentenced to 12 months (12 months suspended) incarceration.

Order of Removal

11. On April 14, 2017, DIAZ LUNA was encountered by an ERO Richmond Fugitive Operations (FugOps) Team during routine operations and was determined that the subject was living in the Richmond area.

12. On May 15, 2017, DIAZ LUNA was encountered by an ERO Richmond FugOps Team at the Chesterfield County General District Court in Chesterfield, VA. He had a court date for DWI 2<sup>nd</sup>, Fictitious ID card and Driving with Revoked License. Subject was taken into ICE custody without incident. On the same date, DIAZ LUNA was served a Notice to Appear, Form I-862, and issued Alien Registration Number 209 909 914.

13. On July 18, 2017, DIAZ LUNA was turned over to Chesterfield County Sheriff's Office.

14. On August 1, 2017, DIAZ LUNA was convicted in the General District Court of Chesterfield, Virginia, of DWI 2<sup>nd</sup> in violation of VA Code 18.2-266 and sentenced to 6 months (5 months 10 days suspended) incarceration. Chesterfield County Sheriff's Office returned him back to ICE custody.

15. On January 29, 2018, An Immigration Judge in Arlington, Virginia issued DIAZ LUNA an order of removal to El Salvador and subject reserved appeal. DIAZ LUNA had 30 days to file appeal with appeal date of February 28, 2018.

16. On February 28, 2018, DIAZ LUNA did not file an appeal in the time allotted, thus making his order of removal final.

Removal to El Salvador

17. On March 16, 2018, DIAZ LUNA was removed to El Salvador. Prior to removal, DIAZ LUNA was served I-294, Warning to Alien Ordered Removed or Deported.

Illegal Reentry to U.S.

18. DIAZ LUNA illegally reentered the United States without admission, inspection, or parole on an unknown date after March 16, 2018, at or near an unknown location. DIAZ LUNA was not granted permission to enter the United States by the Secretary of Homeland Security or the United States Attorney General.

Found in U.S and Chesterfield Arrest

19. On March 10, 2024, DIAZ LUNA was detected by the Pacific Enforcement Response Center (PERC) in Laguna Niguel, California, which received an Immigration Alien Response (IAR) from the U.S. ICE Law Enforcement Support Center for Diaz Luna, Denis Omar who was arrested in Chesterfield County, Virginia, for the following offense: 1) Driving while intoxicated in violation of Virginia Penal Code 18.2-266. An Immigration Detainer, Form I-247, was lodged. DIAZ LUNA was then currently in custody in Chesterfield County Jail with a pending court date of May 7, 2024.

20. On April 11, 2024, DIAZ LUNA was granted a bond from Chesterfield County Jail in Chesterfield, VA. DIAZ LUNA was taken into ICE custody upon his release on April 12, 2024.

21. Based on the facts and information set forth above, I respectfully submit that there is probable cause to believe that Denis Omar DIAZ LUNA, after having been deported or removed from the United States on March 16, 2018, as described above, illegally reentered, and from March 2018 to the present was found in, the United States, without the express permission of the Attorney General or his successor, the Secretary of Homeland Security, for re-application for admission into the United States, in violation of Title 8, United States Code, Section 1326 (a).



Nathan Miller  
Deportation Officer  
United States Immigration & Customs Enforcement

Sworn to and subscribed before me on April 19, 2024.



Summer L. Speight  
United States Magistrate Judge